



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
STATE PLANNING COMMISSION
OFFICE OF SMART GROWTH

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EILEEN SWAN
Executive Director & Secretary

**Cape May County Cross-acceptance III Public Hearing
New Jersey State Planning Commission
Minutes of the Meeting Held March 20, 2007
Cape May County Administration Building
4 Moore Road
Cape May Court House, NJ 08210**

OPEN PUBLIC MEETINGS ACT

Eileen Swan, Executive Director and Secretary, called the March 20, 2007 meeting of the New Jersey State Planning Commission (SPC) to order at 7:11 p.m. Ms. Swan announced that notice of the date, time and place of the meeting had been given in accordance with the Open Public Meetings Act.

PLEDGE OF ALLEGIANCE

Ms. Swan asked everyone to stand for the Pledge of Allegiance.

WELCOME & INTRODUCTIONS

Ms. Swan thanked everyone for attending the meeting. She noted that the SPC had by resolution set a standard that at least one public member of the SPC will be at each of these public hearings. However, Marilyn Lennon, who had been scheduled to be in attendance as the SPC public member, could not attend due to her mother's recent passing. With about a day left before the hearing, she was unable to find an alternate public member. Ms. Swan stated that the Deputy General had advised her to consider cancelling the hearing, but she felt that it would have been difficult and unfair to take this action, especially as such short notice would likely not have reached the vast majority of attendees. Ms. Swan stated that a summary of the hearing, including the public comments, will be passed on the SPC. She introduced the following representatives of State Agencies that are part of the SPC: William S. Purdie, New Jersey Department of Environmental Protection (NJDEP); Roberta Lang, New Jersey Department of Agriculture (NJDA); and Susan Weber, New Jersey Department of Transportation (NJDOT). Ms. Swan also introduced staff attending on behalf of the Office of Smart Growth (OSG): Lorissa Whitaker, Area Planner, and Jung Kim, Principal Planner. Considering the lack of a

public SPC member, Ms. Swan asked if anyone in the audience had an objection to the continuance of the hearing. No one objected.

OVERVIEW OF ATLANTIC COUNTY CROSS-ACCEPTANCE & THE STATE PLAN

Ms. Swan provided an overview of the third round of the Cross-acceptance process. The presentation noted the various internal, interagency and staff-to-staff meetings that have taken place to date, and the role of Cape May County as the negotiating entity on behalf of municipalities and the local public. Ms. Swan explained the role of the State Plan Policy Map (SPPM) as a graphic depiction of the State Development & Redevelopment Plan's (State Plan) goals and policies. She also discussed the new format for the 2007 State Plan, which will follow the elements of a local master plan per the Municipal Land Use Law (MLUL). The SPC will also seek a legislative change to provide for more time between Cross-acceptance rounds.

Ms. Swan then provided a general breakdown of the policy issues, which ranged broadly from water allocation to transportation to property taxes. The mapping issues have been deferred to Plan Endorsement, as those were concentrated in the mainland municipalities of Upper, Dennis and Middle Townships.

The next step for Cross-acceptance will be for all 21 counties to go through the public hearing phase, upon which a full draft plan will be produced. There will be several more opportunities for public comment as the SPC reviews the draft State Plan and map.

CAPE MAY COUNTY CROSS-ACCEPTANCE REPORT PRESENTATION

Before commencing his presentation, Jim Smith, Planning Director, noted that a County Planning Board meeting would follow the hearing. Mr. Smith then provided an overview of the third round of the Cross-acceptance process for Cape May County. The County went to planning board meetings for each municipality, and the County also held its own hearings to finalize and adopt the Cross-acceptance report. Mr. Smith noted that 10 of the 16 municipalities in Cape May already exhibited some degree of consistency with the State Plan as Designated Centers, plan-endorsed, or as a Pinelands center.

Mr. Smith stated that the negotiations between the County and the State began with a Negotiation Agenda of 56 policy issues, some of which were combined or eliminated due to redundancies and eventually led to a Statement of Agreements and Disagreements of 48 policy issues. A number of these issues have been resolved on a preliminary basis as a result of the staff-to-staff meeting on December 21, 2006. Some answers were changed from "disagreements" to "pending."

Mr. Smith introduced and thanked consultant Marc Shuster for his work on the Cross-acceptance process and report.

PUBLIC COMMENT

At 7:33 p.m., Ms. Swan opened the hearing for public comments, explaining that due to the number of people who had signed up to speak, she would allow for at least 5 minutes of speaking time rather than the standard 3 minutes.

Commenter 1: Matt Blake, conservation coordinator of the American Littoral Society, stated that he generally supports the state planning processes. Mr. Blake stated his concern about the natural resources of the County in the face of sprawling development. He felt that the SPPM overlooks certain resources that should be mapped as environmentally sensitive. Mr. Blake criticized the tax ratables chase in parts of the County and noted that open space preservation has positive fiscal impacts with less demand for police/fire services and schools. He added that a number of open space programs do provide compensations for the reduced development. Mr. Blake stated that OSG should not proceed with either Cross-acceptance or Plan Endorsement until data was available from the NJDEP/USGS study on Cape May water supply (aka Gibson Bill study). He noted that local zoning is too dense in comparison to what residents want and what visitors seek.

Commenter 2: Candace Kanaplue of the Waetzman Planning Group stated that her questions have been answered and chose not to comment.

Commenter 3: Neil Hensel, member of Avalon Borough's planning and zoning boards, stated that he will submit written comments. Mr. Hensel was concerned about the lack of reference in the OSG presentation to Planning Area 5B (Environmentally Sensitive/Barrier Islands Planning Area). He stated that the State Plan cannot ignore the summer population which increases 10- to 20-fold, with the population in Avalon going from 2,500 to 30,000. He stated that the infrastructure needs to accommodate the peak population, as tourism is an important revenue source for the county. He felt that the barrier islands provide significant tax revenue to the county, but that this is not distributed equitably.

Commenter 4: Ernest Jones from Avalan Borough chose not to comment.

Commenter 5: Jim McLaughlin of the Middle Township zoning board chose not to comment.

Commenter 6: (NOTE: Card appears to have been taken and not returned to OSG staff.)

Commenter 7: Steve Kent of Seaville (Upper Township) chose not to comment.

Commenter 8: Kevin Goudie of HELP chose not to comment.

As all the people who had signed up to comment had spoken, Ms. Swan asked the audience if there were anyone else who wished to speak.

Commenter 9: Fred Schmidt, resident of Middle Township and an attorney representing certain property owners in the Township, commented that people in Cape May did not want dense, compact areas but rather the American dream of single-family homes and the mobility of the car. Mr. Schmidt stated that infrastructure is way behind development and that perhaps development should proceed in order to force the provision of infrastructure. He also discussed property rights, the loss of value from downzoning, which he felt left only large lots for the wealthy. He stated that the SPC is holding up pent-up demand of 500 to 1000 housing units and that DEP is holding up the planning process with the Gibson study. He felt that the planning process and the environmental community ignored human needs.

With regard to the relationship between the SPPM and the CAFRA rules, Ms. Swan clarified that DEP regulations set impervious coverage limits and that Planning Areas do not overtake local zoning.

Commenter 10: Nick Mevas (sp?) of Atlantic City stated that Mr. Schmidt touched on a number of pertinent issues. Mr. Mevas discussed the influx of people into Cape May and the resulting housing demand. He asked how the State Plan could come into play now in light of the Appellate Court's recent decision on the Council on Affordable Housing's third round rules. He thought the Cross-acceptance process was premature.

Ms. Swan responded that the point about COAH is specific to that agency. She reiterated that Planning Areas do not change the local zoning. However, with PA5 for example, it is intended to reflect environmental regulations and realities on the ground. The goal of the State Plan is to provide for sustainable growth, as was the case in Upper Township's Plan Endorsement process, which considered water supply, infrastructure, affordable housing and other issues in a comprehensive manner.

Mr. Mevas stated that to say that the Planning Areas do not trump local zoning is inaccurate. He stated that good planning from the local perspective, where ratables are important, is different from the state perspective which seeks to restrict development. He stated that affordable housing needs should trump environmental regulations, according to the Mount Laurel II decision.

Marc Shuster, planning consultant for Cape May County, stated that Mount Laurel II specified that all decisions regarding the placement of housing should be consistent with good planning, including environmental regulations, and that this was the ultimate "trump." Mr. Mevas stated that Mount Laurel II cites the need for a site suitability analysis. Mr. Shuster responded that this takes into account developability and environmental considerations.

Ms. Swan stated that OSG works with both COAH and DEP to ensure a diversity of housing. Mr. Purdie clarified that while the coastal centers did expire on March 15 (2007), that new centers can be created.

Commenter 11: Charles Kona from Avalon Borough thanked Jim Smith for his accessibility. Mr. Kona stated that that adjacency rule for Planning Areas is a major impediment in terms of reflecting the true nature of communities, especially the barrier islands. He asked why PA5B is environmentally sensitive. Mr. Purdie responded that the PA5B recognizes the valuable coastal ecosystem and the risks of flooding and storms. He said that PA5B also recognizes the developed nature of the barrier islands and their economic importance. Mr. Kona did not see any flexibility in the State Plan, particularly with the upcoming expiration of Avalon's Center. Mr. Purdie clarified that the Center expiration is with regard to the SPPM only and that the coastal regulations do not have an expiration date for barrier island coastal centers.

Mr. Kona then asked about Upper Township's Plan Endorsement petition and whether it was a condition for projects not regulated by CAFRA to now have those regulations apply. Mr. Purdie answered that this was not a condition, but that the Township did rezone and adopt various standards and ordinances. It was recognized as part of the Plan Endorsement process that some changes needed to be made in the environs. Ms. Swan added that Action Plans are created during Plan Endorsement to outline these issues ahead of time. Roberta Lang added the communities can request pre-petition meetings to discuss these issues. Mr. Purdie noted that thresholds are different in barrier islands compared to Upper Township.

Mr. Kona stated that good planning is a subjective term and that Upper Township sacrificed value by downzoning. He stated that when the idea of a State Plan was first introduced,

communities were hesitant to support it, but ended up doing so on the basis that it was not regulatory. He stated that the State Plan has evolved into a regulatory process.

Commenter 12: Matt Blake inquired about the mapping on the PowerPoint presentation versus the hard copy in the front of the room. Ms. Swan clarified that they were the same maps.

CLOSING DISCUSSION

Following the end of the public comment portion, Jim Smith stated that the Cape May Court House area should be a Suburban Planning Area (PA2) and criticized the adjacency rule. He also stated that it is difficult to get small wastewater systems approved by DEP and that there should be a better alternative. Ms. Swan and Mr. Purdie noted that alternative review processes do exist. Mr. Smith stated that a connection between COAH and the State Plan has happened, even though this was not the original intention. He also stated that Designated Centers should not have to start at the very beginning with regard to Plan Endorsement and renewing the Centers. Ms. Swan answered that the Action Plans recognize that every town comes in at a different level in terms of their planning and needs. Mr. Smith acknowledged that this seemed fair and asked whether the county Plan Endorsement process will be simplified. Ms. Swan responded that there is an outline for this that will be finalized and distributed. Mr. Smith also inquired if the Gibson Bill study could be moved faster. Mr. Purdie responded that DEP and USGS have completed the water supply analysis and will distribute the information to the stakeholders. Currently, they are assessing the range of possible solutions for water supply.

ADJOURNMENT

Ms. Swan thanked everyone for attending and reiterated that the public comments will be forwarded to the SPC. She also thanked the County for hosting the meeting. Ms. Swan adjourned the hearing at 8:40 p.m.